

Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.

APPELLANT PRO SE:

JIMMY ROBINSON
Elkhart, Indiana

ATTORNEYS FOR APPELLEES:

STEVE CARTER
Attorney General of Indiana

ELIZABETH ROGERS
Deputy Attorney General
Indianapolis, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

JIMMY ROBINSON,

Appellant,

VS.

REVIEW BOARD OF THE INDIANA
DEPARTMENT OF WORKFORCE
DEVELOPMENT and BAYER
HEALTHCARE LLC,

Appellees.

)
)
)
)
)
)
)
)
)
)
)

No. 93A02-0701-EX-80

APPEAL FROM THE REVIEW BOARD OF THE
DEPARTMENT OF WORKFORCE DEVELOPMENT
Cause No. 06-R-3386

December 31, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

CRONE, Judge

In a pro se appeal from the denial of unemployment benefits, Jimmy Robinson seems to be challenging the sufficiency of evidence. However, his failure to comply with our Appellate Rules precludes our review. Therefore, we must dismiss.

“We begin by observing that one who proceeds pro se is ‘held to the same established rules of procedure that a trained legal counsel is bound to follow’ and, therefore, must be prepared to accept the consequences of his or her action.” *Ramsey v. Review Bd. of Ind. Dep’t of Workforce Dev.*, 789 N.E.2d 486, 487 (Ind. Ct. App. 2003) (quoting *Mullis v. Martin*, 615 N.E.2d 498, 500 (Ind. Ct. App. 1993)). While we prefer to decide cases on the merits, we will deem alleged errors waived where an appellant’s noncompliance with the rules of appellate procedure is so substantial it impedes our appellate consideration of the errors. *Id.* The purpose of our appellate rules is to aid and expedite review and to relieve the appellate court of the burden of searching the materials and briefing the case. *See id.* “We will not become an advocate for a party, nor will we address arguments which are either inappropriate, too poorly developed or improperly expressed to be understood.” *Terpstra v. Farmers & Merch. Bank*, 483 N.E.2d 749, 754 (Ind. Ct. App. 1985), *trans. denied*.

Robinson’s appellate brief contains a multitude of deficiencies and violates nearly every provision of Appellate Rule 46(A) in some way. His table of contents does not mention or provide page numbers for the fifteen pages of exhibits he erroneously includes within his brief rather than in a separate appendix. Ind. Appellate Rule 46(A)(1), -(F). Indeed, he submitted no appendix. He includes no table of authorities,

perhaps because he cites no authorities. App. R. 46(A)(2), -(A)(8)(a). His statement of the issue consists of just two words, “unjust discharge.” Appellant’s Br. at 1.

Rather than setting out the pertinent procedural events in his statement of the case pursuant to Appellate Rule 46(A)(5)’s mandate, Robinson begins arguing in this portion of his brief. Specifically, he contends that his medical condition¹ and medicine were not considered, and he asserts that the administrative law judge “tried this case on being impaired, not for refusal to take the drug test [which] is what I was discharged for.” Appellant’s Br. at 1. Robinson fails to mention, *inter alia*, that a second hearing (March 2007) was held in this matter because the first one (October 2006) could not be transcribed. *See* Appellee’s App. at 10.

Robinson’s statement of facts reads, in total, as follows: “I never refuse the test. See claimant Exhibit No. 1^[2] Tr. p.27.” Appellant’s Br. at 1. This could hardly be described as a non-argumentative narrative of relevant facts presented in a light most favorable to the decision of the Review Board. *See* App. R. 46(A)(6) (requiring that statement of facts be stated in accordance with the standard of review appropriate to the order being appealed); *Stanrail Corp. v. Review Bd. of Dep’t of Workforce Dev.*, 735 N.E.2d 1197, 1202 (Ind. Ct. App. 2000) (noting proper standard of review for such cases), *trans. denied*; *Pitman v. Pitman*, 717 N.E.2d 627, 630 n.1 (Ind. Ct. App. 1999)

¹ Although he does not elaborate, it is possible that Robinson is referring to his “gout, unspecified,” which apparently was the basis for one-year intermittent FMLA leave beginning in February 2006.

² Strangely, Exhibit 1, a form entitled “Substance Abuse Screening Consent,” has a signature that is markedly different from the one that appears on Robinson’s appellant’s brief.

(reiterating that statement of facts must be devoid of argument). Based upon Robinson's statement of facts and statement of case, it is virtually impossible to discern what occurred in his case.

Both the summary of argument and argument sections of Robinson's brief are similarly problematic and unenlightening. In his argument summary, Robinson alleges that a human resources consultant discharged him "immediately when there wasn't any urine in the cup [and] in her haste she didn't follow the procedures of the collective bargaining agreement." Appellant's Br. at 1. Robinson's argument section, which we reproduce in its entirety below, does little to fill in the vast blanks of this appeal:

* Procedure: I was discharged when Theresa Englebrecht didn't follow them. Employer Exhibit A Tr. p. 6

* Misleading: The company claim to know nothing about the medication, they did. Tr. p. 27

* Changing Stories: Bayer Security guard said he overheard a Mishawaka police officer say the result of my breathalyzer and told another guard (hearsay) the police never made an report. (Employer Exhibit C. Tr. p. 20-21.)

* Sober: I had nothing to drink on 9-5-06.^[3] I had only used mouthwash.

Id. at 2. Again, no statute, case, or other authority is cited. Further, we can detect no cogent argument. App. R. 46(A)(8)(a).

In conclusion, the requirements of our Appellate Rules simply have not been met. While at times we can overlook minor mistakes and irregularities, we cannot do so when the nature and number of them make meaningful review impossible. Such is the situation here. Accordingly, we are compelled to dismiss Robinson's appeal.

³ This is the first and only time in his brief that Robinson mentions September 5, 2006, which evidently was the date on which his employer, Bayer Healthcare LLC, discharged him.

Dismissed.⁴

DARDEN, J., and MAY, J., concur.

⁴ Our dismissal should in no way be interpreted as a decision on the merits of Robinson's claim. We recognize that an employee is ineligible for unemployment benefits if discharged for just cause, which includes knowingly violating a reasonable rule of the employer that is uniformly enforced by the employer. *See* Ind. Code § 22-4-15-1; *Franks v. Review Bd. of the Ind. Employment Sec. Div.*, 419 N.E.2d 1318, 1319 (Ind. Ct. App. 1981). This is particularly true of a safety rule, such as not being under the influence. It is equally true, however, that if one could prove that a twenty-plus-year-employee was discharged under questionable circumstances (.02/.20 BAC discrepancy) within the same year that the employee had taken legitimate, documented FMLA leave, questions of retaliatory discharge might arise. *See Purdy v. Wright Tree Serv., Inc.*, 835 N.E.2d 209, 212-15 (Ind. Ct. App. 2005) (discussing FMLA and retaliatory discharge), *trans. denied*.